MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2016/2017

UCO3622 – COMPANY LAW II

(All Sections / Groups)

24 FEBRUARY 2017
Reading Time : 9.00 a.m. – 9.15 a.m.
(15 Minutes)
Answering Time: 9.15 a.m. – 12.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 4 Questions only.

3. Attempt **ALL THREE (3)** questions in PART A and **ONE (1)** question in PART B. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into Examination Hall CLEAN and ORIGINAL copy of:
   i. Companies Act 1965 (Act 125); and
   ii. Capital Markets and Services Act 2007 (Act 671)
   iii. Securities Commission Act 1993 (Act 498)

   Students are not allowed to lend or borrow statute(s) during the Examination.

5. Please write all your answers in the Answer Booklet provided.

PART A : Answer ALL questions.

QUESTION 1

Lorelai received an information on the proposed privatisation and de-listing of Gilmore Group Berhad (Gilmore) via a Selective Capital Repayment exercise announced on 29 September 2008.

Thereafter, Lorelai acquired 204,000 units of Gilmore shares between 22 September 2008 and 25 September 2008 whilst in possession of material non-public information. Lorelai acquired the shares through her own account and also the account of her niece, Sookie St James (Sookie). Sookie allowed Lorelai to use her trading account for the purpose of acquiring the said shares.

With reference to the relevant statutory provisions and case law, analyse whether there is any prohibited market practice involved.

(Total: 25 marks)

QUESTION 2

Carnaby Berhad (Carnaby) was listed on the stock exchange. Since 2015, Carnaby has been having financial problem and is trying to rescue it from financial collapse. Carnaby was eventually de-listed in May 2016.

Advise Carnaby whether there is any mechanism to restructure or facilitate a formal compromise of its debts under the Companies Act 1965 and the procedures to be followed.

(Total : 25 marks)

QUESTION 3

Winding up is a process by which a company's assets are collected, debts are paid and the surplus (if any) is distributed among the company members. In a voluntary winding up, a solvent company may turn into insolvent if the company fails to adhere to the timely requirement of filing the necessary documentation.

Discuss.

(Total : 25 marks)

Continued .....

PART B

Answer either Question 4A **OR** 4B.

QUESTION 4

A. Jacky Chan, Jacky Jeung and Jade Ling are the shareholders of SuperBig Sdn. Bhd. (SuperBig). During an annual general meeting (AGM) of SuperBig held in 2012, a resolution was passed where SuperBig will issue 30,000 units of shares at premium of RM3.00 per share to Jacky Chan.

SuperBig's Articles of Association state that the par value of the share is at RM1.00 per share. Jacky Chan had paid the sum of RM30,000.00 only to SuperBig. The balance is to be paid later upon calls of the company.

In another AGM held in 2014, SuperBig passed another resolution to allot and issue another 50,000 units of fully paid share to Jade Ling secured by a debenture in consideration for the sum of RM25,000.00 lent by Jade Ling to the company.

Few years later Jade Ling offered to sell all her shares to Jacky Jeung who recently was appointed as the director of the company. However, it was refused by Jacky Jeung who contended that the shares held by Jade Ling was invalid as it was issued at discount.

At the same time, SuperBig also sent a written call notice to Jacky Chan to claim for the balance of the unpaid sum of shares from him. Knowing that SuperBig was in the threat of winding up, Jacky Chan ignored the notice.

Discuss.

(Total : 25 marks)

Continued .....

B. Fortnum Sdn. Bhd. (Fortnum) is a leading steel producer. In June 2016, Fortnum has secured RM2 million export finance facility from Mason Bank, Liberty Bank and Nunstead Bank. As security for the facility, Fortnum issued a debenture secured by the following:

(i) a factory with the address of KM112, Leather Lane, Batu Pahat created in favour of Liberty Bank on 1 June 2016;

(ii) Fortnum's assets and undertaking, whatsoever and wheresoever situate both present and future, including but not limited to the raw materials, stock in trade, which are or may from time to time while the debenture is in force, created in favour of Mason Bank on 15 June 2016; and

(iii) SMS Siemag Steel Making Machine, created in favour of Nunstead Bank on 1 July 2016.

All the debentures were duly registered with the Companies Commission of Malaysia (CCM) on 28 July 2016.

Sometime after the registration, Mason Bank found out that there was a charge created on 4 March 2016 over all of Fortnum's assets both present and future in favour of Oval Bank. The debenture to the charge in favour of Oval Bank contained a clause which provided that the charge shall immediately attach and become affixed if Fortnum charges or attempts to charge or encumber any of its property or assets without the prior written consent of Oval Bank.

However, on 30 December 2016, a winding up petition was filed against Fortnum and consequently, Fortnum was wound up on 25 January 2017.

Advise the relevant parties on the validity and priority of the charges.

(Total : 25 marks)

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